UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/127,336	07/31/1998	BRUCE ANTHONY BEADLE	AT9-98-302	9993

	EXAMINER
35525 7590 03/16/2004	ZHEN, LI B

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ART UNIT	PAPER NUMBER
2126	10

DATE MAILED: 03/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Office Action Summary	Application No. 09/127,336	Applicant(s) BEADLE ET AL.
	Examiner Li B. Zhen	Art Unit 2126

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 January 2004*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some *   c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1 – 22 are pending in the application.

Specification

2.   The title of the invention is not descriptive. A new title is required that is clearly

indicative of the invention to which the claims are directed.

3.   The applicant recites a number of references by the attorney docket numbers [p.

1, lines 8 – 16]. Please update the docket numbers into U.S. application serial

numbers.

Double Patenting

4.   A rejection based on double patenting of the "same invention" type finds its
support in the language of 35 U.S.C. 101 which states that "whoever invents or
discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis
added). Thus, the term "same invention," in this context, means an invention drawn to
identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re
Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164
USPQ 619 (CCPA 1970).

        A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by
canceling or amending the conflicting claims so they are no longer coextensive in
scope. The filing of a terminal disclaimer <u>cannot</u> overcome a double patenting rejection
based upon 35 U.S.C. 101.

5.   Claims 1 – 22 are provisionally rejected under the judicially created doctrine of

obviousness-type double patenting as being unpatentable over claims 1 – 3, 8 and 17 of

copending Application No. 09/127,337 (hereinafter Beadle337) in view of U.S. Patent

No. 6,332,218 to Walker.

        This is a <u>provisional</u> obviousness-type double patenting rejection because the

conflicting claims have not in fact been patented.

Examiner notes the Walker reference was cited in previous office actions.

6.   As to claim 1, Beadle337 teaches selecting classes [selection options] using a

browser [a browser] for use by a virtual machine [Java virtual machine] in a data

processing system [claim 8, lines 1 – 2], the method comprising:

providing through the browser, an interface [graphical user interface] in which the

interface allows for the selection of classes [an option that is selectable] for use by the

virtual machine [claim 3, lines 3 – 4];

receiving a selection of classes [selected option] through the interface [claim 8,

line 5]; and

storing the selection of classes [claim 8, line 6], wherein the selection of classes

is used by the browser when initializing the virtual machine [claim 8, line 7].

7.   Beadle337 teaches a graphical interface that allows the user to select options for

a Java virtual machine but does not specify the options as selection of classes.

However, Walker teaches allowing a user selecting classes [dependency list 26

includes one or more entries 30(1) through 30(P)...each of the entries 30(p), along with

the contents of the respective fields 31 and 32(n), may be established in response to

input information provided by an operator; col. 5, lines 21 – 53] and providing the

selection of classes for use by a virtual machine [if the operator wishes to have a class

22 instantiated in the virtual machine 20 for use during processing of a program...he or

she can enable the program/class loader 24 to instantiate the class 22 by providing an

entry 26 for the program 21 in the dependency list 26 and identify the program in field

31 and the class 22 in a field 32(n) in the entry 30(p); col. 5, lines 21 – 53].

8.   It would have been obvious to a person of ordinarily skilled in the art at the time

of the invention to apply the teaching of allowing a user selecting classes as taught by

Walker to the invention of Beadle because this permits the operator to enable classes to

be instantiated in the virtual machine which might not otherwise be instantiated for use

during processing of the program [col. 2, lines 40 – 47 of Walker].

9.   As to claim 2, Beadle337 teaches the interface is a graphical user interface

[claim 2, line 1].

10.   As to claim 3, Beadle337 teaches the virtual machine is a Java virtual machine

[Java virtual machine; claim 3, lines 1 – 2].

11.   As to claim 6, Beadle337 as modified teaches the selection of classes is a class

path [if the operator wishes to have a class 22 instantiated in the virtual machine 20 for

use during processing of a program...he or she can enable the program/class loader 24

to instantiate the class 22 by providing an entry 26 for the program 21 in the

dependency list 26 and identify the program in field 31 and the class 22 in a field 32(n)

in the entry 30(p); col. 5, lines 21 – 53 of Walker].

12.   As to claim 8, this is a combination of method claims 1 – 3; note the rejections of

claims 1 – 3, which also meet this method claim.

13.   As to claim 12, this is a system claim that corresponds to method claim 1; note

the rejection of method claim 1, which also meets this system claim.

14.   As to claim 19, this is a product claim that corresponds to method claim 8; note

the rejection of claim 8 above, which also meets this product claim.

15.   As to claim 20, this is a combination of method claims 1 and 6; note the

rejections of claims 1 and 6, which also meet this method claim.

Conclusion

16.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Li B. Zhen whose telephone number is (703) 305-3406.

The examiner can normally be reached on Mon - Fri, 8:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Meng-Ai An can be reached on (703) 305-9678. The fax phone number for

the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Li B. Zhen
Examiner
Art Unit 2126

lbz
March 15, 2004

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